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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,873	04/03/2000	James P. Pearson	UIZ-003DVCN	4136

959 7590 04/28/2004

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

EXAMINER

SWARTZ, RODNEY P

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/541,873

Applicant(s)

PEARSON ET AL.

Examiner

Rodney P. Swartz, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2February2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-70 and 74-79 is/are pending in the application.
- 4a) Of the above claim(s) 46-53 and 77-79 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44,45,54-70 and 74-76 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 44-70,74-79 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Applicants' Response to Office Action, received 2February2004, is acknowledged. Claims 44, 45, 54, 75, and 76 have been amended. Claims 71-73 have been cancelled.

Applicants argue that their response of 13January2003 was not addressed nor acknowledged on the record.

The current examiner apologizes for the lack of acknowledgement. Upon a review of the papers in the application, the examiner has found applicants' 13January2003 which had been stapled to another paper. The examiner has considered the response and maintains that the new restriction requirement, mailed 2October2003, remains in effect.

Applicant's election with traverse of Invention I, claims 44, 45, and 54-76 in Office Action, mailed 2October2003, Paper No. 18, is acknowledged. The traversal is on the grounds that all claims are linked by a single, searchable, unifying aspect, i.e., autoinducer molecules of *P. aeruginosa*. This is not found persuasive because of the reasons put forth in the requirement of 2October2003. In addition, while the searches may overlap, the searches are not coextensive, and the separate have been place into classes and subclasses.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 44-70 and 74-79 are pending. Claims 46-53 and 77-79 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected elected invention.
3. Claims 44, 45, 54-70, and 74-76 are under consideration.

Rejections Withdrawn/Moot

4. The rejection of claims 71-73 under 35 U.S.C. 112, second paragraph, as being indefinite, is moot in light of the cancelation of the claims.

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5. The rejection of claims 44, 45, 54-70, and 74-76 under 35 U.S.C. 112, second paragraph, as being indefinite, is withdrawn in light of the amendment of the claims.
6. The rejection of claims 44, 45, 54-58, and 60-76 under 35 U.S.C. 112, first paragraph, scope of enablement for methods of selecting inhibitors or synergists of any/all other autoinducers of *P. aeruginosa*, is withdrawn in light of the amendment of the claims.

Conclusion

7. Claims 44, 45, 54-70, and 74-76 are allowable over the prior art of record.
8. This application is in condition for allowance except for the following formal matters:
Cancellation of nonelected claims 46-53 and 77-79.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (571)272-0864.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RODNEY P. SWARTZ, PH.D
PRIMARY EXAMINER
Art Unit 1645

April 26, 2004